September 11, 2026

Dear Commissioners:

We write in response to your September 4, 2026 memorandum and the public discussion of using County Farm land for approximately 150 housing units adjacent to the House of Corrections and the warming center now under construction. We recognize Strafford County's housing shortage. We do not oppose a responsible evaluation of public land for workforce housing. We do object to advancing a site-specific concept–or treating donated drawings, an RFQ, or a state-list nomination as progress–before the County has disclosed the legal structure, financial assumptions, property value, infrastructure obligations, operational risks, and approval path.

The September 4 memorandum does not answer the Delegation's questions. It acknowledges that representatives are asking questions the Commissioners have "yet to consider." That is the central problem. Those questions are not premature. Public promotion of the concept is premature if the foundational matters have not been evaluated.

1. The housing statute does not displace Delegation authority
RSA 12-O:72-a establishes a state Partners in Housing Program. It does not approve this project, designate this parcel, appropriate county funds, select a developer, waive Dover's land-use requirements, or authorize the Commissioners to convey county property acting alone. It says only that funding *may* be available to a developer to whom a county transfers property pursuant to RSA 28:8-c, provided at least 20 percent of the units remain affordable for at least 20 years. "May" is discretionary, not a guarantee. Implementing rules are not even due until December 1, 2026.

RSA 28:8-c is explicit: to transfer a valid interest, a sale or lease of county real property must use competitive bidding or the professional real-estate process under RSA 28:6-a, and must be ratified by majority votes of both the county convention and its executive committee. RSA 24:13, I(c) vests the convention with power to authorize the sale and conveyance of county real estate. RSA 28:7 likewise conditions a sale on convention authorization.

The New Hampshire Supreme Court has long recognized this division. In *O'Brien v. County of Rockingham*, 80 N.H. 522, 524 (1923), the Court explained that the convention holds the powers to raise county taxes and authorize the purchase, sale, and conveyance of county real estate, while commissioners manage county finances and property except where limited by powers conferred on the convention. *Brown v. Grafton County*, 69 N.H. 130, 131–32 (1896), recognized that commissioners may sell county real estate only with convention authority. Dollar thresholds have changed; the statutory division of authority has not.

Public discussion of an idea is management. Conveying title is not. Conceptual plans, an RFQ, or placement on a state housing list are not informal evolution. They are the matters the Delegation must understand before it can lawfully ratify a transfer. The convention also controls appropriations under RSA 24:13 and 24:14. A paid study, survey, appraisal, or design contract is an expenditure. If no appropriation covers housing-development planning, that work should not proceed on county funds without Delegation authority.

2. The County must say exactly what is being proposed

The County's website describes initial concept plans donated by Hutter Construction and Warrenstreet Architects. That statement concerns the plans. It does not establish that the County has decided to donate the land. The Commissioners should state plainly whether the contemplated transaction is a sale, ground lease, nominal lease, below-market conveyance, donation, development agreement, or another structure.

That distinction controls the legal process, the value surrendered, continuing county exposure, tax treatment, financing, reversion rights, enforcement of affordability restrictions, and remedies if the project fails. Until the transaction is defined, claims of "no tax impact" or "land at no cost" are conclusions without a disclosed foundation.

County land is not free. Even when no cash changes hands, the land has market value, opportunity cost, and future public uses. A transfer at little or no price is a transfer of value from every city and town in the county. RSA 28:6-a requires professional real-estate services for a sale or lease to include, at minimum, a market analysis based on highest and best use. Any below-market contribution should be measured against that benchmark and supported by a written finding of the public benefit received in return.

3. Riverside, the jail, and the warming center already occupy this campus

New Hampshire counties exist to operate a jail, meet long-term-care obligations, and support the sheriff, county attorney, registry, and courts. They are not housing authorities. Zoning and housing production belong first to municipalities. Before adding a developer partnership to this campus, the two operations the County already owns require attention.

Riverside Rest Home's 2024 Medicaid cost report was described in Delegation proceedings as showing an operating shortfall of approximately $7.17 million. That figure should be reconciled to audited county financial statements before it is treated as the facility's total net loss. Even so, the reported pattern is serious: publicly discussed cumulative Medicaid operating losses from 2015 through 2024 on the order of $66 million, averaging about $6.6 million a year, with a 2026 expenditure budget still in the $39 million range and the gap closed by county taxes. Hyder House is being closed. The replacement-home question remains unresolved. A new capital commitment on the same campus, while that structural deficit continues, divides attention for years.

The House of Corrections is not a quiet, self-funding operation. Recent records show overtime overruns, inmate medical costs above budget, delayed federal boarding payments, and repeated short-term borrowing. ICE boarding on the order of $9 million a year is now a large share of county revenue and has already divided the Delegation. Fixed jail costs do not fall when the mix of people in custody changes. Classification, medical care, and staffing minimums remain. That is the work three Commissioners and one administrator are charged to oversee.

The warming center already encumbers the campus. The Delegation approved use of county land at the former humane-society site next to the jail. Construction is proceeding: roughly 10,000 square feet, 94 beds, a Hutter contract of about $3.13 million, paid by Dover, Rochester, and Somersworth. The County is fiscal agent and landlord. Discussion has included a $1-per-year, 99-year lease and the possibility that the building later becomes a county asset. A regional cold-weather shelter can keep people alive. Placing it on county land does not make the use free to the taxpayer. It moves a difficult municipal function onto a campus the County must secure, insure, and explain. A 99-year encumbrance is a permanent loss of that parcel for a replacement nursing home, jail support, or a market sale.

Every hour spent designing a housing campus is an hour not spent on those obligations. Capacity is not free because the meetings are already on the calendar.

4. Housing next to a jail and a warming center is a lease-up risk the taxpayer would underwrite
On August 27 the Commissioners previewed approximately 150 units in three buildings behind the jail, adjacent to the warming center, with a conceptual cost near $45 million and land described as "at no cost." If working families will not choose a home between a house of corrections and a 94-bed seasonal shelter, the County will have given away an asset and still will not have housing.

Workforce housing succeeds when people who work in the region want to live there. Families weigh schools, quiet, parking, and safety. Lenders and tax-credit investors price location. Neighbors on County Farm Road already raised safety concerns when the shelter was approved. Stacking apartments on the same road does not retire those concerns; it imports them into the rent roll.

The statute's 20-percent affordable set-aside for 20 years is a modest public condition. The other 80 percent must still find paying tenants. Empty or deeply discounted units next to two institutional uses are not a community benefit. They are a stranded project on land the County can never again sell at full value or use for the nursing-home and jail questions it has not finished.

5. Due diligence should precede solicitation or commitment
Before issuing an RFQ tied to this site, nominating the parcel for a state program, negotiating material terms, or requesting authority to transfer an interest, the Commissioners should submit a written feasibility package to the Delegation and the public. The consultant must be independent of any developer, architect, contractor, nonprofit operator, or financing entity seeking to participate. Donated concept plans may help visualize an idea. They are not a substitute for independent analysis under a defined public scope.

At minimum, the package should include:
- Three fiscal scenarios: hold the land for county use; sell it under RSA 28:8-c at highest and best use; and convey it below market for housing.
- A current independent appraisal and highest-and-best-use analysis.
- A written description of the proposed transaction, ownership, operator, financing, tax status, affordability covenant, default remedies, reversion rights, and county obligations.
- A market and absorption study specific to jail and shelter adjacency—stated preference and revealed rents—including any discount required to lease units, and whether the proposed unit count, rents, and bedroom mix are supportable here.
- A civil and utility analysis covering water, sewer, stormwater, access, traffic, parking, environmental constraints, and estimated off-site improvements.
- A public-safety and calls-for-service overlay using jail and Willand data, plus projected load with 94 shelter beds and 150 apartments on one road, and an allocation of police, fire, and EMS cost between Dover and the County.
- A campus plan showing how housing would coexist with the House of Corrections, the warming center, Riverside Rest Home, and future county operational needs, including uses a transfer or long-term encumbrance would foreclose.
- A fiscal-impact analysis identifying county expenditures, staff time, contingent liabilities, foregone sale or lease proceeds, tax treatment, and downside scenarios.
- A complete approval schedule for the Commissioners, executive committee, county convention, City of Dover, and state agencies.
- Kill criteria: conditions under which the Delegation should vote no.

The state's municipal housing fiscal calculator is useful for city budgets. It does not measure county opportunity cost, donated land, or campus operations. Those items belong in our study, not in a press description of "no tax impact."

6. Expenditures require an identified appropriation
RSA 24:13, I(b) vests appropriation authority in the county convention. RSA 24:14 defines an appropriation as money authorized for a specified purpose and requires appropriations to be itemized in detail. The Commissioners manage day-to-day finances within the adopted budget, but a study, survey, appraisal, design contract, legal engagement, infrastructure commitment, or development obligation must be charged to a lawful and sufficiently specified appropriation.

The Commissioners should disclose all County resources used to date, including staff time, legal review, consultant services, surveys, engineering, design, application preparation, and other direct and in-kind costs. Donated plans do not answer whether the County has incurred other costs or made commitments.

7. Requested action

We ask the executive committee and full Delegation to require the following before authorizing or ratifying any site-specific sale, lease, conveyance, development agreement, RFQ tailored to this parcel, state-list nomination, or new appropriation:

1. A written, question-by-question response to the Delegation's August 26 letter.
2. Disclosure of all communications, commitments, expenditures, donated services, and participating entities associated with the concept.
3. A precise description of the proposed transaction and the legal authority asserted for each material step.
4. An independently prepared appraisal, highest-and-best-use analysis, market and absorption study specific to this adjacency, fiscal-impact analysis, and campus-impact assessment, paid from a capped study appropriation and performed by a firm with no construction interest in the project.
5. A public presentation of the completed analyses before an RFQ is tailored to this parcel or material terms are negotiated.
6. A competitive and conflict-screened selection process consistent with RSA 28:6-a and RSA 28:8-c.
7. Express votes by the executive committee and county convention whenever required by RSA chapters 24 and 28.
8. No below-market transfer unless the study shows lease-up at this location and a net taxpayer benefit compared with holding or selling the parcel.

Housing is needed in Strafford County. That need does not reduce the County's obligation to protect public assets, disclose risk, follow the statutory division of authority, and demonstrate that this particular site and transaction serve the taxpayers better than the alternatives. Public meetings matter, but transparency is not a scavenger hunt through hours of video. When elected representatives submit direct questions about public land and public exposure, they are entitled to direct, organized, and documented answers.

Until those answers and independent analyses are available, the County should preserve the property, avoid material commitments, keep Commissioner time concentrated on Riverside's structural losses and the House of Corrections, and refrain from presenting this concept as financially or operationally settled. This campus, at this time, with this stack of uses, is not the place unless the numbers say otherwise. We have not seen those numbers.

Respectfully submitted,

<u>Strafford County Delegation Executive Committee Republicans:</u>
Representative Susan G. DeRoy
Representative Glenn Bailey
Representative Claudine R. Burnham
Representative Michael Harrington
Representative Thomas L. Kaczynski, Jr.
Representative Kelley L. Potenza